



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,041	02/04/2004	Andrew J. Boron	716139.169	2040
27128	7590	07/19/2005	EXAMINER	
BLACKWELL SANDERS PEPER MARTIN LLP			GREEN, BRIAN	
720 OLIVE STREET			ART UNIT	
SUITE 2400			PAPER NUMBER	
ST. LOUIS, MO 63101			3611	

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

8

Office Action Summary	Application No.		Applicant(s)	
	10/708,041		BORON ET AL.	
	Examiner		Art Unit	
	Brian K. Green		3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: In the specification, paragraph 0012, line 2, the applicant failed to indicate the figure numbering the phrase, “display panel of Fig.”.

Appropriate correction is required.

Claim Objections

Claims 1-29 are objected to because of the following informalities: In claims 1-29, line 1, the applicant has numbered the claims in a confusing manner, i.e. “[c1]”, etc. The applicant should consider numbering the claims as follows: “Claim 1”, “Claim 2”, etc. In claim 1, line 8, claim 5, line 6, claim 20, lines 13-14 and 20, claim 23, line 7, claim 28, lines 7-8, 12,16,20, and 22, and claim 29, lines 6 and 11, “a guard structure” should apparently be “the guard structure” to make it clear that the applicant is referring to the guard structure mentioned earlier in the respective claim. In claim 20, line 10, “panels” should be “panel”. In claim 28, line 11, “at least said of said openings” should apparently be “at least one of said openings”. In claim 28, line 12, “the two upright supports” should be “the at least two upright supports”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3611

Claim 6 is indefinite since it is not clear whether the applicant is positively claiming the guard structure in combination with the display unit.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11, 13-18, and 20-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Green (U.S. Patent No. 3,256,628).

Green shows in figures 6-10 an advertising display unit comprising a pair of generally opposed panels (26,26), a web structure (34,38,40), and an attachment structure (60,62,64,66,68) for securing the display unit to the guard structure (52,70). In regard to claim 2, Green shows in figures 8 and 9 a tie member (68). In regard to claims 3-5, Green shows in figures 6-9 that a portion of each panel is located between a portion of the tie member and the structure, a portion of the tie member is exposed exterior of the sign structure, and the attachment structure includes a plurality of spaced openings (50,53,54,56,60,62,64,66). In regard to claim 6, the examiner has taken the position that the applicant is not positively claiming the guard structure. Therefore, the additional description of the guard structure in claim 6 is not given any patentable weight. In regard to claims 7-9, 23, and 24, Green shows in figures 6-9 that the attachment structure includes a plurality of spaced openings (50,53,54,56,60,62,64,66) and that the holes are spaced vertically in the position shown in figures 6 and 7, i.e. the row of holes (50,53,54,56) are spaced vertically

Art Unit: 3611

from the holes (60,62,64,66). In regard to claim 10, the web structure would help to resist bending. In regard to claim 11, Green shows a web panel (38). In regard to claims 13 and 14, as broadly defined, either the flaps (38,40, on the right hand side of the sign structure as shown in figure 8) or one of the flaps (38 or 40 on the right hand side of the sign structure as shown in figure 8) is considered to be the spacer. In regard to claims 15 and 16, Green shows a web forming flange (40) and a first web panel (38). In regard to claim 17, Green shows that the web structure closes the top portion with a web portion (34). In regard to claim 18, Green shows that the web structure (38,40 on each side) closes opposite sides of the sign portion. In regard to claim 22, Green shows that the web structure includes a top web portion (34) and a plurality of second web panels (38,40 on each side) adjacent the side portions. In regard to claim 25, Green shows a tie member (68). In regard to claim 26, as broadly defined, the cable (68) is considered to be a "cable strap". In regard to claim 27, as broadly defined, the indicia directly placed on the panels is considered to be the means for displaying indicia.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Fuller et al. (U.S. Patent No. 5,605,414).

Green discloses the applicant's basic inventive concept for attaching the display unit to a guard structure which includes two upright posts. Fuller et al. shows in figures 5 and 6 the idea

Art Unit: 3611

of attaching a display to a guard structure having two upright posts. In view of the teachings of Fuller et al. it would have been obvious to one in the art to modify Green by attaching the display unit to a guard structure having two upright posts since this would allow the display unit to be used on a wider range of supporting structures.

Claims 9 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Snyder, Jr. (U.S. Patent No. 3,479,760).

Green discloses the applicant's basic inventive concept for providing vertically spaced openings when the display unit is attached to the guard structure. Snyder, Jr. shows in figures 1 and 3 the idea of providing vertically spaced openings (the upper openings 30 and the lower openings 30) into panels in order to allow ties to be used to secure the panels to a post. In view of the teachings of Snyder, Jr. it would have been obvious to one in the art to modify Green by providing additional openings which are vertically spaced from the first openings since this would allow the panels to be attached to the support in a more secure manner.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Feldwhere (U.S. Patent No. 5,606,815).

Green discloses the applicant's basic inventive concept for attaching the web panel to the display panel with slots and ears. Green shows in figure 6 and 8 that a web panel (38) is attached to the display panel (26,40) with snap fasteners (46,48). Feldwhere shows in figures 1-3 the idea of attaching one panel to another panel with slots (26) and ears (42). In view of the teachings of Feldwhere it would have been obvious to one in the art to modify Green by attaching the web

Art Unit: 3611

panel and display panel together with ears and slots since this would allow the display unit to be made in an easier and less expensive manner.

Claims 19 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Sarkisian et al. (U.S. Patent No. 4,138,787).

Green discloses the applicant's basic inventive concept for providing a holding structure/displaying means on at least one of the panels. Sarkisian et al. shows in figure 1 the idea of placing holding structure/displaying means (14,15) onto a display panel. In view of the teachings of Sarkisian et al. it would have been obvious to one in the art to modify Green by placing a holding structure/displaying means onto the display since this would allow the message on the display panel to be changed in an easier and faster manner.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Caveney et al. (U.S. Patent No. 5,402,592).

Green discloses the applicant's basic inventive concept for whether the wire fastener (68) is a "cable strap". Caveney shows in figures 1 and 4 a cable strap (30) which is used to secure a panel to a support. In view of the teachings of Caveney et al. it would have been obvious to one in the art to modify Green by using a cable strap instead of a wire strap since this would allow the display unit to be attached to the support in an easier and more secure manner.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3611

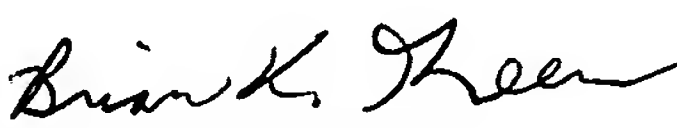
Caulkins and Huey teach the use of display units that have open bottoms.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bkg
July 15, 2005


BRIAN K. GREEN
PRIMARY EXAMINER